



March 28, 2017

Mr. Jon Wilkins, Chief
Federal Communications Commission
Wireless Telecommunications Bureau
445 12th Street, S.W.
Washington, D.C. 20554

WT Docket No. 16-421
RE: Streamlining Deployment of Small Cell Infrastructure by Improving Wireless
Facilities;
Mobilitie, LLC Petition for Declaratory Ruling

Dear Mr. Wilkins:

As mayor of Indianapolis, I am excited about the economic potential the next wave of wireless technology will bring to our city. I look forward to working with industry and community leaders to ensure Indianapolis is at the forefront of these important developments.

These developments present a new but not insurmountable challenge to state and local governments. To expand into 5G capability and provide coverage that meets growing demand, wireless carriers will need to move more wireless facilities closer to consumers, necessitating the use of public rights of way and government property such as street lights and traffic poles. In 2016, the State of Indiana enacted a statute that reflected federal policy. In response, the City of Indianapolis worked with all stakeholders, including the wireless providers, to align our policies with the federal and state policies. Thankfully, Indianapolis was able to develop a process that is efficient, fair and transparent, but one issue remains that the FCC should give careful consideration: the cost of further policy proposals on state and city governments.

The FCC has before it an industry-driven petition which would ask it to adopt new regulations preventing cities and other local governments from charging fair market rental fees for use of the right-of-way spaces mentioned above. In addition, it would limit costs as to what can be charged for reviewing applications, while shortening the time allowed for review.

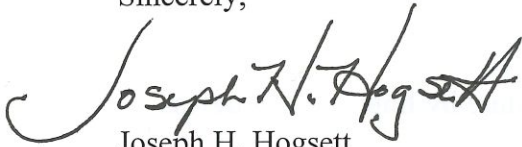


We believe that no new regulations or preemptions are required in this matter. The FCC should acknowledge that sections 253 and 332(c)(7) of the Telecommunications Act of 1996 limit the authority of the FCC when it comes to local right-of-ways and zoning authority over wireless devices. At the very least, the FCC should acknowledge the actual costs incurred by state and local governments and protect against any efforts to limit their ability to recover these costs. Failing to do so will result in states and cities being forced to subsidize this expansion while efforts to decrease our basic zoning rights continue.

Enclosed you will find information on our proposed ordinance and permitting process that successfully reduce administrative burdens, costs, and delays that arose from the rules adopted in the 2014 Infrastructure Order.

Thank you for your consideration regarding this matter. If you have any questions or concerns, feel free to contact Mr. Andrew Mallon in my office for further assistance.

Sincerely,

A handwritten signature in black ink, reading "Joseph H. Hogsett". The signature is fluid and cursive, with a large initial "J" and a stylized "H".

Joseph H. Hogsett
Mayor
City of Indianapolis

Attachments

CITY-COUNTY GENERAL ORDINANCE NO. ___, 2017
Proposal No. ___, 2017

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 2017-AO-001

A **GENERAL ORDINANCE** to amend portions of the “Revised Code of the Consolidated City and County” regarding the Wireless Communications Facilities use-specific standards by adding new definitions, adding regulations for new structures located in public rights-of-way, and correcting internal references, to take effect immediately.

WHEREAS, the State of Indiana enacted Indiana Code 8-1-32.3, a new section of the Indiana Code regulating small cell wireless communications facilities and their location in public rights-of-way.

WHEREAS, the emerging small cell wireless technology is a service the city desires to accommodate while maintaining safe and efficient public rights-of-way.

WHEREAS, the Zoning Ordinance of Marion County, Indiana, Section 743-305.OO of the “Revised Code of the Consolidated City and County” establishes the Wireless Communications Facility use-specific standards.

WHEREAS, the City-County Council, after approval by the Metropolitan Development Commission and requisite public notice, adopted said revised wireless communications facilities definitions and use-specific standards at their meeting _____ 2017.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; now, therefore:

**BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. The Zoning Ordinance of Marion County, Indiana, Section 740-202 of the “Revised Code of the Consolidated City and County”, pertaining to the definitions, hereby is amended pursuant to IC 36-7-4, by the deletion of language that is stricken-through and by the addition of language that is underscored, to read as follows and to be alphabetized as needed:

Utility Pole: Any pole or structure designed and used to carry utility lines or provide lighting. The term does not include a wireless support structure or an electrical transmission tower, utilized for electric, telephone, telegraph, cable television, radio, microwave, television services, street lights, other lighting standards, or comparable purposes.¹

Wireless support structure (WSS): A freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.²

SECTION 2. The Zoning Ordinance of Marion County, Indiana, Section 743-305.OO.12 of the “Revised Code of the Consolidated City and County”, pertaining to the Wireless Communications Facility use-specific standards, hereby is amended pursuant to IC 36-7-4, by the deletion of the existing language in its entirety which is stricken-through and the replacement with the language as follows:

12. Transmission line easements and public rights-of-way

- a. ~~Wireless communications facilities may be located in high power electric transmission line and substation easements or rights of way and public rights of way, under the following circumstances:~~
 1. ~~High power electric transmission line easements or rights of way~~
 - i. ~~Existing utility structures. WCF may be located on existing utility structures, as long as the height of the WCF and the structure together is not more than 110% of the height of the existing structure.~~
 - ii. ~~New WCF structures. New WCF structures shall only be located within the footprint of an existing utility structure (except in PK 1, where the location is subject to a special exception). WCF may be located on new structures, as long as the height of the WCF and the new structure together is not more than one 110% of the height of the existing utility structure.~~
 - iii. ~~Each WCF provider shall obtain written consent of the owner of the electric transmission line structure and submit a copy of such consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility structures.~~
 - iv. ~~Equipment structures for WCF. Equipment structures shall not exceed 300 square feet in area for each structure, with a maximum height of 15 feet.~~
 2. ~~Public rights of way that are local and collector streets (any streets not indicated in the Official Thoroughfare Plan).~~

¹ Amended to align with IC 8-1-32.3-12 (HEA 1318) and Chapter 641

² Added to align with IC 8-1-32.3-14 (HEA 1318)

- ~~i. Wireless communications facilities may be located on utility poles, as long as the pole is not increased in height.~~
 - ~~ii. Extension from poles: WCF shall extend no more than 4 feet from the pole, measured from the pole to the furthest point of the WCF from the pole.~~
 - ~~iii. Equipment structures for WCF: Equipment structures shall not exceed 8 square feet in area, with a maximum projection of 2 feet from the utility pole, and shall be attached to the same utility pole as the WCF.~~
 - ~~iv. Design: Each WCF provider shall obtain written consent of the owner of the utility pole and submit a copy of such consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility poles.~~
3. ~~Other public rights-of-way (all streets indicated in the Official Thoroughfare Plan).~~
- ~~i. WCF may be located on utility poles, as long as the height of the WCF and the pole together is not more than 110% of the height of the existing pole.~~
 - ~~ii. Extension from poles: WCF shall extend no more than 4 feet from the pole, measured from the pole to the furthest point of the WCF from the pole.~~
 - ~~iii. Equipment structures for WCF:~~
 - ~~a. Freeways and Expressways: Equipment structures in rights-of-way of freeways and expressways shall not exceed 300 square feet in area, with a maximum height of 15 feet.~~
 - ~~b. All other streets: Equipment structures shall not exceed 8 square feet in area.~~
4. ~~Each WCF provider shall obtain written consent of the owner of the utility pole and submit a copy of that consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility poles.~~

- a. **Existing Structures.** Wireless communications facility may be located on existing structures in easements for High-power Electric Transmission Line, easements for substations, or rights-of-way, in accordance with the following standards.
- 1. Height is not increased more than 20 feet or 110% of the existing structure, whichever is greater.³
 - 2. Area for any equipment compound is not increased more than 2,500 square feet.⁴
 - 3. An Improvement Location Permit is not required.⁵

³ IC 8-1-32.3-11 (HEA 1318); beyond this it is considered a substantial modification and subject to all other requirements, as per IC 8-1-32.3-21

⁴ IC 8-1-32.3-11 (HEA 1318); beyond this it is considered a substantial modification and subject to all other requirements, as per IC 8-1-32.3-21

- b. **New Structures.** Wireless communications facility may be located on a wireless support structure in easements for high-power electric transmission line, easement for substations, or rights-of-way, in accordance with the standards in Table 743-305-2.

The 500-foot separation requirement set forth in Table 743-305-2 shall not apply to a new structure which meets all of the following:

1. Replaces an existing WSS or utility pole at the same location;
2. The need for the replacement structure results from an operational need of the carrier;
3. Meets the other requirements of Table 743-305-2; and
4. Is similar to the structure being replaced in height, style, material and color.

- c. **Administrator's Approval for New Structures in a Right-of-way.** The Administrator may approve a waiver of the standard requiring 500 feet separation from another WSS on the same side of the street if an application is submitted and it is determined that:

1. The proposed location is in a C-5 district, or a C-7 district, or an Industrial district, or is located along these street segments in the Regional Center: Georgia Street from Pennsylvania Street to Capitol Avenue, Delaware Street from South Street to Maryland Street, Pennsylvania Street from South Street to Maryland Street, Capitol Avenue from South Street to Maryland Street, West Street from South Street to New York Street, and South Street from West Street to Pennsylvania Street;
2. The applicant adequately explains the operational need for the waiver;
3. The applicant demonstrates that co-locating on an existing utility pole within 50 feet of the proposed WSS is not feasible;
4. Resulting separation from another WSS on the same side of the street is not less than 200 feet;
5. Level of safety and risk are not significantly impacted;
6. Efficient and effective use of the right-of-way, both above and below ground, are not significantly impacted;
7. Accommodation of future utility and right-of-way improvements are not significantly impacted; and
8. The proposed location does not present a negative aesthetic impact to the vicinity and otherwise meets the standards set forth in Table 743-305-2.

⁵ As per IC 8-1-32.3-22 and 25 (HEA 1318)

Table 743-305-2 New structures in Rights-of-way and Easements for Transmission Lines		
	In a right-of-way	In an easement for high-power electric transmission line or substation
Location	<ul style="list-style-type: none"> • Immediately inside the right-of-way as far away from the roadway as possible • Outside of any clear sight triangular area • Not block or encroach upon any sidewalk or walkway • At least 25 feet away from an intersection of any two street rights-of-ways 	<ul style="list-style-type: none"> • Outside of any clear sight triangular area • Not block or encroach upon any sidewalk or walkway • At least 25 feet away from an intersection of any two street rights-of-ways
Minimum Separation	<ul style="list-style-type: none"> • 500 feet from another WSS on the same side of the street • 20 feet from any utility pole or traffic pole 	20 feet from any utility pole or traffic pole
Maximum Height	50 feet above grade level, however, in no instance, higher than 110% of the tallest existing utility pole located along the same street within 500 feet	110% of the tallest existing structure in the easement within 1000 feet
Maximum Size of each individual antenna	3 cubic feet includes all exposed elements ⁶	No limitation
Maximum Cumulative Size of all antennas	6 cubic feet includes all exposed elements ⁷	No limitation
Maximum Size of primary equipment enclosure	17 cubic feet ⁸	4,500 cubic feet
Color of WCF and WSS (includes exposed elements such as cabling)	All the same neutral color, such as black, brown, or gray	No limitation

SECTION 3. The Zoning Ordinance of Marion County, Indiana, Section 743-305.OO of the “Revised Code of the Consolidated City and County”, pertaining to the Wireless Communications Facility use-specific standards, hereby is amended pursuant to IC 36-7-4, by the deletion of the language that is stricken-through and the addition of the language that is underscored, to read as follows:

⁶ Aligns with IC 8-1-32.3-9 (HEA 1318)

⁷ Aligns with IC 8-1-32.3-9 (HEA 1318)

⁸ Aligns with IC 8-1-32.3-9 (HEA 1318)

6. More than one tower in a half mile

- b. If any tower is proposed within ½-mile radius of another tower, prior to obtaining an Improvement Location Permit, the entity requesting the new tower must:
 - 1. Identify all towers within one-half-mile radius of the proposed tower; and
 - 2. Provide information to the Administrator outlining the reasons those towers cannot be used for additional WCF.
- c. If there is space available for additional WCF on any of those towers, as required by Section 743-305.~~RR~~OO.5 above, or by previous variance condition or commitment, or if the reasons are found by the Administrator not to be justified, the Improvement Location Permit for the new tower shall not be granted.

...

9. Where permitted

- a. Wireless communication facilities may be located in the zoning districts indicated on the following chart, subject to the standards referenced on the chart. Sites located within a locally designated historic district are also subject to the requirements of IC 36-7-11.1, and sites located within the Meridian Street Preservation Area are subject to the requirements of IC 36-7-11.2. This Section 743-305.~~RR~~OO.9 is not intended to alter or affect the authorities of the Indianapolis Historic Preservation Commission (IHPC) or the Meridian Street Preservation Commission (MSPC), or the foregoing Indiana statutes.
- b. Wireless communications facilities may also be located:
 - 1. On signs as regulated by Section 743-305.~~RR~~OO.13;
 - 2. In high-power electric transmission line easements or rights-of-way as regulated by Section 743-305.~~RR~~OO.12.a); and
 - 3. In public rights-of-way, as regulated by Section 743-305.~~RR~~OO.12.

...

13. Signs

Sign-mounted wireless communications facilities may be located on legally established signs under the following circumstances:

- c. WCF may be incorporated into a sign face, or located on a sign structure, as long as the sign face and structure are in compliance with all aspects of Chapter 744, Article IX. If the WCF is located on the outside of the sign face and structure, and is visible, the area of the antenna shall be included in the measurement of the sign area permitted by Chapter 744, Article IX.
- d. Administrator's approval is required prior to installation of WCF on any sign or sign structure.
- e. Equipment structures for WCF shall not exceed 200 square feet in area, with a maximum height of 10 feet. Equipment structures shall be in compliance with Section 743-305.~~RR~~OO.11.
- f. Where signs have been approved by variance, WCF may be integrated into the sign or sign structure, only if all parameters and conditions of the variance are met.

...

15. Tower removal

- a. All towers that cease to be used for a period of more than one year shall be removed.
- b. Before obtaining an Improvement Location Permit for a tower, an applicant that is not also the owner of the property must provide recordable evidence of a written agreement (a lease, a memorandum of lease, an affidavit or other recordable instrument) between the WCF operator and the property owner that the WCF operator has agreed to remove the tower as required by this Section 743-305.~~RR00~~.15 and further granting a right of access to the Department of Metropolitan Development to enforce this section and cause removal of the tower. If the Department of Metropolitan Development causes the removal of the tower pursuant to this Section 743-305.~~RR00~~.15, the WCF operator, its successors, all other past users of the tower and the owner of the property upon which the tower is located shall be jointly and severally liable for the costs incurred by the Department of Metropolitan Development in accomplishing the removal.
- c. Within 30 days after use of a tower has ceased, the last user shall notify the Administrator of the discontinued use.

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16. Improvement Location Permit

An Improvement Location Permit application for a WCF shall include the following:

- a. Site and landscape plans, drawn to scale;
- b. A description of the WCF and its design;
- c. Documentation, establishing the structural integrity of the WCF;
- d. A statement that the WCF meets the standards of the American National Standards Institute;
- e. A statement regarding the availability of another WCF provider to use a tower, as required in Section 743-305.~~RR00~~.5;
- f. Proof of ownership of the proposed site, or property owner's consent to use the site for WCF;
- g. Copies or other evidence of any necessary easements;
- h. A map indicating the existing topography of the site; and
- i. For a variance or special exception, a graphic or photographic representation shall be submitted that shows the height of the WCF, in relation to its surroundings.

THE FOREGOING amending ordinance, 2017-AO-001, to the “Revised Code of the Consolidated City and County” of Indianapolis-Marion County, Indiana, is hereby recommended for approval by the affirmative vote of the undersigned members of said Commission, this ____ day of February, 2017.

Dan Parker, Commissioner and President

Megan Garver, Commissioner

Jennifer Gause, Commissioner

David Hurley, Commissioner

Adam Kirsch, Commissioner

John Lewis, Commissioner

Bruce Schumacher, Commissioner

William Selm, Commissioner

Lena Hackett, Commissioner and Secretary

METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA

ATTEST:

Lena Hackett, Secretary
Metropolitan Development Commission
of Marion County, Indiana

APPROVED AS TO LEGAL FORM
AND ADEQUACY this ____ day of
January, 2017

Christopher Steinmetz
Assistant Corporation Counsel

ATTACHMENT A

CITY OF INDIANAPOLIS **DEPARTMENT OF BUSINESS AND NEIGHBORHOOD SERVICES** **REGULATIONS**

ARTICLE IV. RIGHT-OF-WAY USE PERMIT FOR THE PURPOSES OF SITING A WIRELESS SUPPORT STRUCTURE

4.01 Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Applicant means an entity or person who submits an application for a permit under these regulations.

Application means the document created by the consolidated city's division of construction and business services that must be completed and submitted to the division of construction and business services by an applicant, in order to request a permit.

Consolidated city shall have the meaning ascribed to it in Section 102-3 of the Revised Code, which is: (1) when referring to the governmental unit, the Consolidated City of Indianapolis and Marion County, existing pursuant to IC 36-3, and includes its officers, agencies, and special service and special taxing districts; or (2) when referring to the geographic area, means the territory within the boundaries of the county as identified in Chapter 111 of the Revised Code except that territory within an excluded city.

Communications service provider shall have the meaning ascribed to it in IC 8-1-2.6-13(b).

Entity means a corporation, partnership, limited liability company, association, firm, or any governmental agency, authority, board, agency and department.

Permit means a permit validly issued by the consolidated city's division of construction and business services authorizing the siting of a wireless support structure in public right-of-way.

Person shall have the meaning ascribed to it in Section 102-12 of the Revised Code, which is: includes and shall be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals. For purposes of this regulation, the term shall also mean a public utility or a communications service provider.

Public easement shall have the meaning ascribed to it in Section 645-112 of the Revised Code, which is: any easement owned or controlled by the consolidated city and established, acquired, dedicated or devoted to public utility purposes, including the area above and below such easements.

Public right-of-way shall have the meaning ascribed to it in Section 645-112 of the Revised Code, which is: any traveled way and/or any public easement.

Public utility shall have the meaning ascribed to it in IC 8-1-2-1(a).

Revised Code means the Revised Code of the Consolidated City of Indianapolis and Marion County.

Siting a wireless support structure means the location designation, installation, construction, operation, ownership, or use of a wireless support structure in the public right-of-way.

Thoroughfare shall have the meaning ascribed to it in Section 645-112 of the Revised Code, which is: that portion of any public right-of-way that is included in the Marion County Thoroughfare Plan.

Traffic control signal shall have the meaning ascribed to it in Section 441-101 of the Revised Code, which is: includes any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traveled way shall have the meaning ascribed to it in Section 645-112 of the Revised Code, which is: any highway, street, alley, sidewalk or other public right-of-way for motor vehicle or pedestrian travel under the jurisdiction or control of the consolidated city, including any areas with any public right-of-way that may be unpaved and the unoccupied area above and below such rights-of-way.

Wireless communications facility means the set of equipment, antennae, and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

Wireless support structure means a freestanding structure designed to support wireless communications facilities. The term does not include a utility pole or an electrical transmission tower.

4.02 Permit Required for Siting a Wireless Support Structure.

- (a) A permit is required for siting a wireless support structure within or upon public right-of-way or a thoroughfare.
- (b) It shall be unlawful for a wireless support structure to be located within or upon public right-of-way or a thoroughfare without a permit having first been issued by the consolidated city's division of construction and business services.
- (c) A permit issued under this regulation is valid for one (1) year, after which an application must be submitted with the division of construction and business services to renew the permit.

4.03 Exemptions; Notification; Right of Way Permit Use Decals.

- (a) The following types of activities are exempt from the permit requirement of Section 4.02:
 - (1) Placement of a wireless communications facility on an existing pole or traffic control signal owned by the consolidated city.
 - (2) Placement of a wireless communications facility on a building owned by the consolidated city.
 - (3) Placement of a wireless communications facility on an existing pole owned by a public utility, provided that the height is not increased more than 20 feet or 110% of the existing structure, whichever is lesser.

- (4) Placement of a wireless communications facility on an existing, lawful wireless support structure provided that the height is not increased more than 20 feet or 110% of the existing structure, whichever is lesser.
- (b) A person placing a wireless communications facility that is exempt from the permit requirement of Section 4.02 shall notify the consolidated city's division of construction and business services in writing at least ten (10) days prior to such placement.
- (c) Right of Way Permit Use Decals currently provided by the division of construction and business services for work performed on utility poles in the public right-of-way shall not exempt any applicant seeking to site a wireless support structure from obtaining a permit under this regulation.

4.04 Minimum Standards for Wireless Support Structures and Wireless Communications Facilities.

Wireless support structures proposed to be located in public right-of-way or a thoroughfare, and the wireless communications facilities to be attached thereto, shall meet the minimum standards set forth in Table 4.04-A.

Table 4.04-A Standards for New Wireless Support Structures in the Right-of-way	
Location	<ul style="list-style-type: none"> • Immediately inside the right-of-way as far away from the roadway as possible • Does not encroach or further impede upon any clear site triangular area • Not block or encroach upon any traveled way • At least 25 feet away from an intersection of any two street rights-of-ways
Minimum Separation	<ul style="list-style-type: none"> • 500 feet from any wireless support structure on the same side of the street • 20 feet from any utility pole or traffic signal pole
Maximum Height	50 feet above grade level; however, in no instance higher than 110% of the tallest existing utility pole located along the same street within 500 feet
Maximum Size of each individual antenna	3 cubic feet includes all exposed elements ¹
Maximum Cumulative Size of all antennas	6 cubic feet includes all exposed elements ²
Maximum Size of primary equipment enclosure	17 cubic feet ³
Color of WCF and WSS (includes exposed elements such as cabling)	All the same neutral color, such as black, brown, or gray

¹ Aligns with IC 8-1-32.3-9

² Aligns with IC 8-1-32.3-9

³ Aligns with IC 8-1-32.3-9

4.05 Permit Application.

- (a) Any entity or person siting a wireless support structure within or upon a public right-of-way or a thoroughfare shall first submit an application for a permit with the consolidated city's division of construction and business services, together with the applicable permit fee established in Section 4.06.
- (b) Any entity or person siting a wireless support structure within or upon a public right-of-way or a thoroughfare may submit a consolidated application containing plans for multiple wireless support structures; however, each individual plan will still be considered an individual application subject to the terms of this regulation, including Section 4.06.⁴
- (c) Applications shall include the following information:
 - (1) The applicant's name, business address, and a contact person's name, title, telephone number and email address.
 - (2) The proposed location of the wireless support structure.
 - (3) The names and a contact person's name, title, telephone number and email address for any entity or person other than the applicant which will be using the wireless support structure for the purposes of collocating or otherwise attaching a wireless communications facility or leasing the use of a wireless communications facility.
 - (4) Construction plans that describe the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
 - (5) Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from an engineer licensed in the state of Indiana responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation would not result in the equivalent wireless service functionality, coverage, and capacity;
 - (6) Evidence demonstrating compliance with applicable zoning ordinances of the consolidated city, or of another municipality if the location is on or along a thoroughfare, all conditions and commitments applicable to the effected site, and, if authorized by a variance or special exception, all requirements and conditions of the variance or special exception.
 - (7) Evidence demonstrating compliance with all requirements of the Indianapolis Historic Preservation Commission if the structure is proposed to be located within a designated historic district or the Meridian Street Preservation Area.
 - (8) A certificate of general liability insurance as required by Section 4.10.

⁴ This is an effort to mirror IC 8-1-32.3-26 and allow for a convenient and efficient application process while also recognizing authority granted under IC 8-1-32.3-18 to collect fees defined under IC 8-1-32.3-16.

- (9) If the applicant is seeking a permit fee waiver, evidence demonstrating that the applicant is qualified to receive a permit fee waiver under Section 4.06(b).
- (10) Any other information requested by the consolidated city's division of construction and business services to indicate compliance with all applicable codes, regulations, covenants, commitments and conditions of grants.

4.06 Permit Application Fees; Waivers.

(a) Permit Application Fees

(b) Permit Application Fee Waivers

If the License Administrator determines that a valuable consideration will be received by the city as a result of the siting of a wireless support structure, they may waive the permitting fees provided in this regulation. Any applicant seeking a waiver must submit in writing a description of the consideration they wish for the administrator to consider. If a waiver is granted, it shall be supported by a written finding identifying the consideration and indicating its value to the city.⁵ Such consideration may include the attachment of a street light in accordance with standards supplied by the Department of Public Works in a location identified by the City as having lighting needs.

4.07 Indemnification Agreement.

By filing an application for a permit for siting a wireless support structure, the applicant, any other entity or person on whose behalf the application is made, and any other person or entity that will be collocating or otherwise attaching a wireless communications facility to the wireless support structure or leasing the use of a wireless communications facility to be placed on the wireless support structure acknowledges and agrees that he/she/it shall jointly and severally indemnify and hold the consolidated city harmless against liability for any and all claims for damage to property and personal injury or death arising out of or resulting from the issuance of the permit or the siting of the wireless support structure.

4.08 Removal of Wireless Support Structures.

- (a) A wireless support structure permitted under this regulation shall be removed within sixty (60) days of the occurrence of any of the following:
 - (1) The permit for the siting of a wireless support structure is not renewed;
 - (2) The consolidated city's department of public works deems the condition or location of any wireless support structure or wireless communications facilities attached thereto to be dangerous or injurious to life or property and orders in writing that it be removed;
 - (3) The consolidated city's department of public works deems it necessary that the location of any wireless support structure shall be changed as necessitated by work initiated or financed by the department of public works;

⁵ Similar to authority already granted to the Administrator under 645-579 of the Revised Code.

- (4) An enforcement action for the violation of a permit requires the removal of the wireless support structure;
 - (5) The mayor, chief of police, or fire chief of the consolidated city deem the removal of the wireless support structure necessary in the exercise of their police powers; or
 - (6) The public right-of-way is vacated or conveyed to a private entity or person, and in providing reasonable and proper notice, the entity or person requests the removal of the wireless support structure.
- (b) When removing a wireless support structure, the owner thereof shall restore the surface of the public right-of-way or thoroughfare in accordance with standards and regulations of the consolidated city's department of public works.
 - (c) If the owner of a wireless support structure fails or refuses to remove the structure under subsection (a) or fails to restore the surface under subsection (b), then the consolidated city may remove the structure or restore the surface, and the owner shall be liable to the consolidated city for the costs thereof.

4.09 Sale of Wireless Support Structure; Transfer of permit.

- (a) If the owner of a wireless support structure permitted under this regulation decides to sell the structure, it shall provide notice to the consolidated city of its intent to sell and provide the city a reasonable opportunity to make an offer for the purchase the structure.
- (b) A permit for the siting of a wireless support structure is not transferrable. Any purchaser of an existing permitted wireless support structure shall obtain a new permit for the siting of a wireless support structure right-of-way use prior to closing on the purchase of the structure.

4.10 Insurance requirement.

Each applicant for a permit for siting a wireless support structure shall file with the application a certificate of general liability insurance naming the Consolidated City of Indianapolis and Marion County as an additional insured in an amount of at least one million dollars (\$1,000,000). Such certificate shall contain a provision that the policy and the coverage afforded will not be canceled until at least thirty (30) days after written notice has been given to the consolidated city. Such insurance shall be maintained and remain in effect during the entire time that the wireless support structure is located in a public right-of-way or a thoroughfare.

4.11 Criteria for issuance of a permit for the siting of a wireless support structure in the public right-of-way.

In evaluating an application for a permit for the siting of a wireless support structure, in addition to the minimum standards set forth in Table 4.04-A, the consolidated city's division of construction and business services shall consider the following in determining whether to issue a permit:

- (1) Whether the applicant has complied with the requirements of the Revised Code and these regulations;

- (2) Whether the siting of a wireless support structure will not adversely impact the health, safety, or general welfare of residents or businesses within the immediate vicinity of the structure's proposed location; and
- (3) Whether the applicant has applied for and secured all other permits and approvals as required by the Revised Code and any other applicable local, state or federal statute, code, rule or regulation.

4.12 Enforcement; Violations.

- (a) The failure to conform to any of the provisions of this regulation shall constitute a violation.
- (b) A violation of this regulation is subject to the enforcement procedures and penalties provided in Section 141-209 of the Revised Code.